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A-S

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/693,499 08/07/96 ONO

M 001560-223

021839 IM22/1220  
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EXAMINER

SHERRER, C

ART UNIT	PAPER NUMBER
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1761 32

DATE MAILED: 12/20/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. 08/693,499	Applicant(s) Ono et al
Examiner Curtis E. Sherrer	Group Art Unit 1761



Responsive to communication(s) filed on Oct 6, 1999.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claims

- Claim(s) 1, 2, and 7-28 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- Claim(s) \_\_\_\_\_ is/are allowed.
- Claim(s) 1, 2, and 7-28 is/are rejected.
- Claim(s) \_\_\_\_\_ is/are objected to.
- Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All  Some\*  None of the CERTIFIED copies of the priority documents have been received.
- received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \*Certified copies not received: \_\_\_\_\_
- Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- Notice of References Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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**Part III DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 1, 2, 7-12, and 19-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. The scope of the phrase "essential oil components," as found in claims 1-2, is unknown. See page 15, lines 32-35 for possible phrasing that would define said phrase's scope.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Haeffner et al (U.S. Pat. No. 5,011,594) for the reasons set forth in the last Office Action.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haeffner et al. for the reasons set forth in the last Office Action

7. Claims 1, 2 and 7-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over ANH (B.E. Pat. No. 1897012) in view of Krasd Food (S.U. Pat. No. 1601112) for the reasons set forth in the last Office Action.

***Response to Arguments***

8. Applicant's arguments filed 10/06/99 have been fully considered but they are not persuasive.

9. Applicants first argue that the 102 rejection is improper because Haeffner et al only treat hop extracts rather than "hops *per se*." While it is unclear what the exact scope of the term "hops" might be, in view of the ambiguous description found in the specification (see page 1, lines 29-32 and page 10, lines 33-36), said term is interpreted reasonably and broadly

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to include whole flowers, plugs, pellets and hop extracts. See page 250-51 of The Encyclopedia of Beer. Therefore, the claim is considered to be properly rejected. It is also noted that Haeffner et al admit that it is well known the prior art to treat whole hops using super critical carbon dioxide (see col. 1, lines 31-34).

10. Applicants then argue that Haeffner et al do not refer to the temperatures as claimed. Claim 2 contains no limitations directed to any specific temperatures and therefore this argument is not found persuasive.

11. Applicants then argue that the obviousness rejection is improper for the reasons stated above. This rejection is also considered proper for the reasons set forth above.

12. Applicants also argue that the obviousness rejection based on ANH in view of Krasd Food is not proper for much the same reasons set forth above with respect to the rejections based on Haeffner et al. Again, for the same reasons set forth above, the claims have been interpreted broadly and reasonably.

13. With respect to the use of the variously claimed pressures, Applicants' attention is again directed to the holding in *In re Boesche*.

***Conclusion***

14. No claim is

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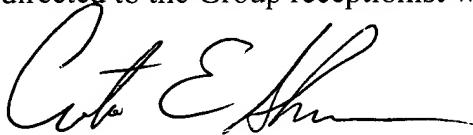
15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis Sherrer whose telephone number is (703) 308-3847. The examiner can normally be reached on Tuesday through Friday from 6:30 to 4:30.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Lacey, can be reached on (703)-308-3535. The fax phone number for this Group is (703)-305-3602.

18. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.



Curtis E. Sherrer

December 15, 1999